

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 05-972V
Filed: October 30, 2008

NOT TO BE PUBLISHED

ANGELA STEFFKE, Legal Representative *
of the Estate of OWEN STEFFKE, *

Petitioner, *

Dismissal; Motion for Judgment on Record;
petitioner unable to provide a medical
opinion.

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

DECISION¹

Subsequent to the Fact Ruling issued on April 15, 2008, petitioner was ordered to file an expert report in support of petitioner's case. See Order, filed June 12, 2008; Order, filed September 23, 2008. On September 25, 2008, petitioner filed a Motion for Judgment on the Record. Petitioner acknowledges in the Motion that petitioner is unable to find a credible expert to support petitioner's allegations that petitioner's infant son, Owen Steffke, died as a result of the vaccinations administered on September 24, 2003. See Motion for Judgment on the Record, filed September 25, 2008. A status conference was conducted on October 21, 2008 to discuss petitioner's Motion for Judgment on the Record. Pursuant to that discussion, it is clear that petitioner understands that based on the current record the case must be dismissed.

¹The undersigned intends to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the entire decision will be available to the public. Id.

To receive compensation under the National Vaccine Compensation Program² petitioner must prove either that 1) Owen Steffke suffered a “Table Injury” - i.e., suffered a prescribed injury within a set timeframe of receiving a covered vaccine as set forth in the Vaccine Injury Table, and died as a complication of that injury, or 2) that Owen Steffke's death was actually caused by a covered vaccine. See § 13(a)(1)(A); § 14(a); § 11(c)(1)(C). The undersigned’s examination of the filed medical records did not uncover any persuasive evidence that Owen Steffke suffered a “Table Injury”. Further, the records do not contain a medical expert’s opinion or any other persuasive evidence indicating that Owen Steffke’s unfortunate death was vaccine-caused.

Under the Act, a petitioner may not be awarded compensation based solely on the petitioner’s claim. Rather, the petition must be supported by either medical records or a medical opinion. § 13(a)(1). In this case, because the medical records do not support petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, was unable, and forthrightly states is unable, to produce a supportive medical opinion.

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate that Owen Steffke suffered a “Table Injury” or that his unfortunate death was actually “caused” by his vaccination. Thus, the court must dismiss this case for want of proof. The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

s/ Gary J. Golkiewicz
Gary J. Golkiewicz
Chief Special Master

²The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 et seq. (West 1991 & Supp. 2002) (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. §§ 300aa of the Act.